

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C.**

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In the Matter of) MM Docket No. 93-17
)
Amendment of Station 73.202(b),) RM-8170
Table of Allotments,)
FM Broadcast Stations)
(Rosendale, New York))

To: The Commission

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

STATEMENT IN SUPPORT OF APPLICATION FOR REVIEW

WMHT Educational Telecommunications (WMHT), by its attorneys, files this statement in support of the State University of New York's (SUNY) "Application for Review " filed April 23, 1996. ^{1/}

WMHT is the licensee of Station WRHV(FM), Poughkeepsie, New York, which shares time on Channel 204A with Station WFNP(FM), licensed to SUNY at Rosendale, New York. The two stations operate in accordance with a time sharing agreement which permitted SUNY and WMHT to settle a comparative hearing. Under that agreement, all programming is transmitted from a common facility operated by WMHT. WMHT originates programming for Station WRHV(FM) from the studios of Station WMHT-FM, Schenectady, New York. SUNY originates its programming from its New Paltz campus studio during the hours for which it is

¹ WMHT has participated at every stage of this rulemaking proceeding. While Section 1.115 of the Commission's rules do not provide specifically for supporting comments to applications seeking review of action on delegated authority, such supporting comments are typically filed on the deadline for oppositions. These supporting comments are filed 15 days following the filing of SUNY's application in accordance with Section 1.115(d) of the Commission's rules regarding the filing of opposition pleadings.

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licensed. The time sharing agreement limits the operation of Station WRHV(FM) for six months of the year, during which months from 8 to 13 hours of programming daily originates from Station WFNP(FM). During the other six months of the year, Station WRHV(FM) occupies the frequency on a 24-hour basis. This timesharing requirement confuses the public and interferes with WMHT's ability to raise funds in support of its mid-Hudson public radio service.

As in previous stages of this rulemaking proceeding, WMHT reiterates its support of SUNY's efforts to secure Channel 273A for its use at Rosendale, New York. WMHT agrees with SUNY that the Mass Media Bureau staff has misapplied Section 1.420(g) of the rules, in a manner which is particularly unfair both to SUNY and to WMHT and disservices the public interest. WMHT has planned to seek modification of the license for Station WRHV(FM) to full time operation following SUNY's conversion to operation on Channel 273A. Grant of SUNY's application for review and the modification of license for Station WRHV(FM) will effectively double the amount of noncommercial service available to the communities served by both stations. SUNY has unequivocally stated its intention to operate the station on a noncommercial basis, and has further stated its willingness to accept a condition on its license restricting the station's use to noncommercial educational purposes only (Application, fn. 11). The erroneous action of the Bureau has served to deprive the public of the benefit which will result from the parties ending their share-time arrangement for the use of Channel 204A. As shown by SUNY in its "Application for Review," reversal of the

Bureau position and a modification of SUNY's license for WFNP(FM)
will best serve the public interest.

Respectfully submitted,

WMHT EDUCATIONAL TELECOMMUNICATIONS

By:


Steven C. Schaffer

SCHWARTZ, WOODS & MILLER
Suite 300, The Dupont Circle Building
1350 Connecticut Avenue, N.W.
Washington, D.C. 20036
(202)833-1700
Its Attorneys

CERTIFICATE OF SERVICE

I, Donna Trader, Secretary in the law office of Schwartz, Woods & Miller, do hereby certify that I have on this 8th day of May, 1996, sent by First Class United States mail, postage prepaid, copies of the foregoing **STATEMENT IN SUPPORT OF APPLICATION FOR REVIEW** to the following:

Mr. John A. Karousos*
Chief, Allocations Branch
Policy and Rules Division
Mass Media Bureau
Federal Communications Commission
2025 M Street, NW, Room 8322
Washington, DC 20554

Mark N. Lipp, Esquire
Mullin, Rhyne, Emmons and Topel, P.C.
1225 Connecticut Avenue, N.W., #300
Washington, D.C. 20036-2604


Todd D. Gray, Esquire
Dow, Lohnes & Albertson
1255 Twenty-Third Street
Washington, DC 20037-1194

Allan G. Moskowitz, Esquire
Kaye, Scholer, Fierman, Hays & Handler
901 15th Street, NW, Suite 1100
Washington, DC 20005

Mr. A. Wray Fitch III
Gammon & Grange, P.C.
8280 Greensboro Drive
Seventh Floor
McLean, VA 22102-3807

Gary S. Smithwick, Esq.
Smithwick & Belendiuk, P.C.
1990 M Street, NW, Suite 510
Washington, DC 20036

Mr. Dennis Jackson
Radio South Burlington, Inc.
Radio Station WQQQ(FM)
19 Boas Lane
Wilton, CT 06897



Donna Trader

* Hand Delivery